

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Placer)

CITY OF LINCOLN,

Plaintiff and Appellant,

v.

DONALD L. BARRINGER et al.,

Defendants and Appellants.

C036184

(Super. Ct. No. SCV7377)

ORDER MODIFYING OPINION AND
DENYING REHEARING

[NO CHANGE IN JUDGMENT]

THE COURT:

The opinion filed October 16, 2002, is modified in the following respect:

Add new footnote 16 on page 43 at the end of the second full paragraph under the heading "IV. The Cross-Appeal":

16. The Barringers' petition for rehearing argues, among other things, that this court incorrectly rejected their cross-

appeal on the procedural ground of failure to cite to the record, as required by former rule 15, California Rules of Court. (Further references to rules are to the California Rules of Court.) The Barringers argue that, although the "Argument" portion of their brief lacked record citations, they satisfied the rule by providing a "Factual Background," with record citations, at the beginning of their brief. The Barringers' position, for which they cite no authority, is inconsistent with former rule 15 and current rule 14, both of which require a record citation for each reference.

Thus, rule 14 says "Each brief must: [¶] . . . [¶] . . . support *any* reference to a matter in the record by a citation to the record." (Italics added.)

Accordingly, *any* reference in the brief must be supported by a citation, regardless of where in the brief that reference appears. This is consistent with former rule 15, which required a record citation for "[t]he statement of *any* matter in the record." (Italics added.) Moreover, it is the only construction consistent with the purpose of the citation requirement, which is to enable appellate justices and staff attorneys to locate relevant portions of the record expeditiously without thumbing through and re-reading earlier portions of a brief.

The Barringers' argument is not well taken.

* * *

This modification does not change the judgment.

The petition for rehearing is denied.

BY THE COURT:

SIMS, Acting P.J.

CALLAHAN, J.

ROBIE, J.